Compressed Transcript

COMMISSION ON MARINE RESOURCES

COMMISSION MEETING

November 20, 2012

N.J. Soree, CSR, P.O. Box 2102, Bay St. Louis, MS 36521
(228) 467-2199
COMMISSION ON MARINE RESOURCES

MEETING OF COMMISSION ON MARINE RESOURCES
November 20, 2012

*******************************
TRANSCRIPT OF MEETING OF COMMISSION ON MARINE RESOURCES AT
BOLTON STATE BUILDING, PUBLIC MEETING ROOM, 1141 BAVIUS
AVENUE, BILoxi, Mississippi, ON THE 20TH DAY OF NOVEMBER 2012
COMMENCING AT 9:00 A.M. AND REPORTED BY NORMA JEAN LAUMER
SOROE, CERTIFIED SHORTHAND REPORTER.

*******************************

COMMISSION MEMBERS PRESENT:

JIMMY TAYLOR, Acting Chairman
RICHARD GOLUTION
SHELBY DRUMMOND
STEVE ROSSARD

ALSO PRESENT:

DR. WILLIAM WALKER, Executive Director DMR
JOSEPH R. HENNELY, Esq., Asst. Attorney General
SANDBY CHEMSET, Esq., Asst. Attorney General

1. Call to Order

MR. TAYLOR: I'd like to call the November meeting of the Mississippi Department of Marine Resources to order.

2. Approval of Minutes Commission Meeting October 16, 2012

MR. TAYLOR: And first on the agenda is approval of the minutes from the October 16 meeting. Are there any changes? Or do I have a motion to accept them?

MR. DRUMMOND: So moved, Mr. Chairman.

MR. TAYLOR: Do I have a second?

MR. GOLUTION: Second.

MR. TAYLOR: Any discussion? All those in favor. Passes unanimously.

3. Approval of Agenda

MR. TAYLOR: Next is approval of the agenda. Do we have any changes to the agenda?

DR. WALKER: Yes, sir, Mr. Chairman. Item G-4 should be an action item; G-4 should be action. And G-5 should be no action.

MR. TAYLOR: Thank you. Do I have a motion to accept the --

MR. GOLUTION: So moved.

MR. TAYLOR: Do I have a second?

MR. DRUMMOND: Second the motion, Mr. Chairman.

MR. TAYLOR: All those in favor. Passes unanimously. Thank you.

4. Public Comments

MR. TAYLOR: Next is our public comments. If you want to make a public comment, please, in the back of the room we have forms you have to fill out. And we welcome your comments. We don't take them lightly. But we're also under time constraints, mostly in these meetings a lot of times, so we limit them to three minutes a person. So first up is --

MR. RAMSEY: [Excuse me.]

MR. TAYLOR: When you come, please come to the microphone and state your name and then, you know, talk about your three minutes.

MR. RAMSEY: Good morning, sir. My name is Gilbert Ramsey. I'd like to present an opportunity for economic development for global recognition for hospitality state.

I've come before disabled veterans in the Gulf Coast with the Naval retirement home. They recognize the discrepancy of the Harrison County senior citizen games, as well as Gulf National Sea Shores opportunity for disabled members.

And I come before you to offer an opportunity for global recognition. I have people calling me from Australia right now. I have people coming from Canada and all over the United States calling me right now as we speak to develop this manufacturing opportunity of employment, economic development. I went to teacher's conference at Hard Rock Casino, and Captain Miller of the oceanographic department at Stennis Space Center recognized what I'm doing. And he's intrigued in conference. We're going to have confrontation to discuss this, conference to discuss this, with their board members at the MSET Stennis Space Center and Magnolia Business Line Seminars and everyone else in the world what I'm pursuing.

I've been working on this with the University of Southern Mississippi and the rehabilitation services out of Jackson, Mississippi, and I cannot emphasize enough that it's a unique opportunity for everybody to come on board with.

And I'd like to recognize a demolition process Ocean Springs marina, the boat facilities y'all fixing to demolition the first of the month, taking bids for it. I'd like an opportunity to come on board and discuss with partnering up with the DMR to associate myself with them to associate myself with them to accommodate everybody for global recognition for economic development manufacturing options.

My name is Gilbert Ramsey. My name of the company is Backwoods Flying Angels ARV.

I've already been recognized by multiple organizations, and I'm here to represent this as a unique opportunity for everybody to recognize everybody together.

N.J. SOROE, CSR #1297
Thank you very much for your time. Have a blessed day, sir.

Mr. Taylor: Thank you very much for your comments. We appreciate it. Anything that can be done to promote the coast and the people of the State of Mississippi is very much appreciated.

Next up is Richard Gable.

Mr. Gable: Yes. My name is Richard Gable. I come before you to ask you if you could or if the members could take into consideration to change or adjust the gill net laws.

I'm a crab fisherman. We catch our own bait or we can catch our own bait. Now the way it stands with approved webbing, which would be cotton or linen, we can't get it nowhere. It's not available to get.

Every month we have to spend right at six hundred dollars a month in bait.

I go out of state to get the bait in order to fish my traps. Well, the crabs ain't too good. They haven't been too good.

So in order for us to try to make our ends meet, we figure if we could catch our bait, then that would be okay. We wouldn't keep losing.

I have sent letters with a few ideas saying to limit the nets to each county, put a higher price on the permit to fish the bait and for bait purposes only, no redfish, no trout, no flounder, just pogy, catfish, mullet spots, something that can be used as bait.

I feel like that that would help us. It would help the crabbers, I know. And if it could be adjusted and the price of the permit go up for the nets, then it would keep the BS out of the fishing industry like it was 25 years ago, which where the problems was created.

And what I was asking for was to take into consideration to let us use nylon because if one happened to be left, which no fisherman is going to leave his net, but if one happened to be left, and it was nylon, the crabs would eat the net up. It wouldn't stay there, which monofilament would. That's why I ask for small size braid nylon.

Thank you.

Mr. Rosarge: Have you considered a small seine, purse seine? I know we had some fellows over in Jackson County that used to catch bait with a seine. That's all they were after was crab bait.

Mr. Gable: I built a hall seine back in '97 when the law was passed. And the price to build a seine is extremely high.

Mr. George Booth, I've talked to him, to build one now it would run about $6,000 versus using a three inch mesh gill net, nothing no smaller, maybe a little bit bigger but not much bigger, would be the cheaper version of -- and you wouldn't catch as many fish at one time.

Mr. Rosarge: I agree. And I thought the same thing, trying to figure out a way to have a gill net for bait. And it's an enforcement issue. But I understand where you're coming from, and being able to compete and catch your own bait would save you money and allow you to compete more. And maybe we could ask the staff to look into it and see what they may could do to allow you to do what you want to do and still maintain the gill nets or whatever you have.

Mr. Gable: Well, the way the laws are is good laws except the part of the degradable material which can't be gotten. If that was available that I could get that, then that would be okay. I'd have to change the net every year because it would rot to nothing. But the problem is there's no company, not even out of the country, that even makes a cotton or linen net.

Mr. Rosarge: The times are going past that, so I agree with you.

Mr. Taylor: Thank you very much.

Mr. Gable: Thank you.

Mr. Collett: Mr. Gable, can I make a suggestion to you?

There's five shrimp processing plants in Biloxi. And there's a lot of bycatch goes away. I mean, you know, we throw it away every day during shrimp season. I believe if you get in touch with some of these shrimp dealers, they would give you the bycatch and it wouldn't cost you anything, small fish and stuff.

Mr. Gable: What's your name?

Mr. Collett: Richard Collett.

Mr. Gable: Mr. Collett, I've shrimped, I've oystered. Then little, the bycatch from the trawls -- and I meant to address that -- I wasn't targeting the shrimp boats when I was in the letters. But the bycatch from a trawl, it don't say in the pot long enough and there's not enough oil in the fish to attract crab.

And we tried the bycatch because when I'd shrimp, we would save it to put it in a crab trap. Well, you could fill a crab trap box completely full of bycatch, and like I said, there's not enough of that oil to attract the crab for it to work.

I had considered that. We've tried that. And it just don't work like the menhaden does or like a mullet would or like a catfish would. The mullet's got oil to it. The catfish just holds up better in the summer months and it don't melt out the traps. And the little bycatch, if you put it in your trap, two days after you put it in it, all the small fish has done eat it out, and it's gone, and the crabs can't come to it or won't come to it.
MR. GOLLOTT: Just a suggestion.

MR. TAYLOR: Thank you very much. We appreciate your comment.

I'd like to recognize Senator Brist Wiggins from Jackson County. Thank you for coming. We always welcome our legislators and wish more of them would come more often.

Next up is Bruce Dockett.

MR. DUCKETT: It's tough getting old. I understand that very much.

MR. TAYLOR: I notice you have your glasses on.

MR. DUCKETT: Yes, I have to have mine.

But I wanted to come this morning and tell you I represent a group in Ocean Springs called Friends of the Ocean Springs Harbor. And we're about 50 folks, friends and neighbors, that live around the harbor.

And we are delighted to see that the commission has given up the idea of this land swap which we've been opposed to. And we're delighted to see that you are going to work with the county to implement the county proposal so the harbor commission can manage those boat slips and the space there where the building is can be turned to green space and used for overflow parking for the ramps.

And we completely support that, and we'll do anything we can to help you do that. Just let us know what we can do, and we'll be glad to do it.

And the third thing we would like is, and this may or may not be in your purview, but we would love to see that recreational area that will be created there named the Dr. Tom McClain Recreation Area. Tom, as you know, spent most of his life doing the best he could for the Ocean Springs harbor and Ocean Springs as a community. So we would love to see that area named after him.

Thank you very much.

MR. TAYLOR: Thank you very much, Mr. Dockett.

Your comments are very well taken, and if we have anything, we'll consider that if we're able to do it. Thank you.

MR. DUCKETT: Thank you. Be glad to help.

E. Executive Director's Report

MR. TAYLOR: Next up is the executive director's report.

DR. WALKER: Commissioners, I just want to take this opportunity to formally introduce the commission to Danny Quince who's standing in the back of the room. He's the better looking one next to Joe. Danny joined us this week as deputy director, a position that's been vacant for -- ever since Corky Perret retired. And we're tickled to death to have him on board with us. We worked with him during his days at the legislature. He was always very supportive and knowledgeable of the programs that go on here at the department.

So I just would like to give you the opportunity to welcome him on board.

MR. TAYLOR: Thank you.

F. Marine Patrol

MR. TAYLOR: Next up is marine patrol. Walter Chatagnier? It's Rusty.

MR. FITZMAURICE: Good morning, Mr. Chairman,

commissioners, Dr. Walker, Sandy, Senator Wiggins.

Quick update on Chief Chatagnier's progress. He is at home recuperating, getting stronger every day, and crying out for visitors. So if you all get a chance, he would appreciate you all stopping by and checking on him. Need to make sure that he has on a chair, though. He's having a hard time getting up and walking, and he needs to walk. So if you stop by, just make sure he's walking down the street some.

You've got the report in front of you. Nothing really major that stands out that we see.

Saltwater fishing violations did go down some this month -- last month.

Did have some undersized fish tickets, violations that were made.

One was over the limit of red drum. You see that at six over 30 inches. You're allowed one over 30, and this particular subject happened for 30 inches.

We had no boat and water safety classes.

Boating accidents with injuries, we had three.

Boating accidents without injuries, we had three.

We assisted the annual coastal cleanup at Jones Park.

We had two outreach presentations, City of Biloxi Safety Fair at Biloxi Town Green, and Pass Christian's night out against crime.

No dive activity reported.

We also had this past month nine officers obtain the swift water training in Pearl River County in Picayune.

That gives us a total now of 17 officers trained in swift water. Our goal is to get the rest of the officers trained by spring of next year.

On our JEA totals, we had 75 patrols, 1,005 man hours, 853 contacts were made, we had three enforcement action reports, nine state issued citations.

MR. TAYLOR: Thank you.

MR. FITZMAURICE: Thank you, sir.

G. Marine Fisheries

MR. TAYLOR: Next up marine fisheries, Dale Diaz.

MR. DIAZ: Good morning, Commissioner Taylor,

commissioners, Dr. Walker, Ms. Chester, Senator Wiggins.

I've got a few items I want to mention to you before we start working through the agenda items for marine fisheries.
One, I want to let y'all know that Mr. Buck Buchanan has put in his paperwork to retire. And he is in the process of doing that right now. His last official day is going to be December 31. But the way it worked, he had enough leave where his last day he actually had to report was one day last week. So anyway, Buck is working his way towards retiring.

I do want to let you know Buck has been a state employee officially since August 1, 1986. And before that, he did work contract for the Bureau of Marine Resources then for a few years. So he's been around a long time. We're losing a lot of historical knowledge.

In the course of his time here, Buck has done almost everything that can be done in marine fisheries. And since 2003, he's been the finfish bureau director, and he's held that position all the way until the time he retired.

We're going to miss a lot of the things about him, though. I mean, God kind of broke the mold when he made Buck. I mean, if y'all know him, that's a fact. But you can't replace somebody like him. If anybody needed help in fisheries with anything, Buck would step in. If somebody was writing a grant for the first time, he'd help them. If we're starting a new program, even if it wasn't in his bureau, he'd help. If people ran samples, he'd be the first one in the lab to help work them up. So it's a big loss for us. But we're glad for Buck, and we're glad for the service that he provided to the department over the years.

So if you get a chance when you see him, please wish him well.

Next up, I want to let you know about the commercial quotas where we stand with those.

Currently for flounders, that's as of October 31, we have harvested so far 33,656 pounds. The total quota that runs through December 31 is 74,000 pounds.

For redfish through October 31 for commercial, we've harvested 29,702 pounds. That quota is total allowable catch is 35,000 pounds, and that runs through December 31. And we're going to stay on top of that just in case they happen to meet the 35,000 pound before that date.

As y'all know, speckled trout is already closed.

Closed sometime back.

So that's where we stand with the commercial quotas.

I sent an e-mail to the commissioners a little while back. But I did want to make this statement during my public comments about the regional management.

Regional management for recreational red snapper has been discussed by the Gulf of Mexico Fisheries Management Council at its last three meetings. Regional management would subdivide the Gulf into separate areas with each area having its own allocation.

Currently recreational fishing for red snapper is managed for the entire U.S. Gulf of Mexico as a single stock.

At the November meeting at the Gulf of Mexico Fisheries Management Council, a motion was passed to have scoping meetings throughout the Gulf to get public input on the regional management concept for recreational red snapper fishery.

Scoping is an early step in the amendment process, and it is started when there is just a general idea or a concept. So the idea is to send it out for public comments through the scoping process to see if the concept has support and merit and to get ideas from the public of what type of things they would like to see included in the amendment that's being put forth.

So it's just an early step in the process to let the public weigh in and see what they think and get some ideas.

The scoping meeting for Mississippi will likely take place sometime in early January. Regional management has its pros and cons, so, I mean, it's just -- we're in the exploratory phase with the Gulf Council right now looking into this.

I guess the primary pro would be its flexibility to manage the stock in a way that best meets the needs and desires of the users in that region is the primary advantage of regional management.

Currently, for red snapper there's a Gulfwide season. It opens on June 1. There's a twc fish bag limit. I think last year it ran for 40 days.

Under regional management, decisions could be made to do things differently within the region. You could look at different start dates. You could look at potentially weekend only seasons, maybe different bag limits, a whole host of different management options could be considered on a regional basis that doesn't really work for the Gulfwide basis.

To me, the primary disadvantage to regional management is, you know, there may be more than one state in a region, and if that's the case, getting cooperation amongst a lot of different decisionmakers that will have some say in the process will probably be difficult and hard to manage because it's a complicated concept, and there's a whole lot of things to factor in in regional management.

But mostly I just wanted to let you know that the Gulf of Mexico Fisheries Management Council is exploring that, and there will be some scoping meetings taking place. So if y'all have any comments, please let me know what your comments are. I'd love to hear them. And you can e-mail me or call me or any way you'd like to let me know what your thoughts are.
First up for marine fisheries on the agenda is going to be an action item, and it's Title 22 Part 13 which deals with aquaculture. And Joe Jewell is going to take care of that. Joe?

MR. COLOTT: Mr. Chairman, can I interrupt just a minute?

I'd like to make a motion that we put the oyster season G-5 back on an action.

MR. TAYLOR: Okay. Do I have a second?

MR. BOSFORD: Yes, I'll second.

MR. TAYLOR: All those in favor. Passes unanimously. Okay.

MR. COLOTT: Okay.

3. Title 22 Part 13 Update (NOD)

MR. JEWELL: Good morning, commissioners, Sandy, and Dr. Walker. I want to wish everybody a happy Thanksgiving. The holidays are on us.

This morning, I have before you a proposal to amend Title 22 Part 13 to incorporate onshore aquaculture.

We have had some input from our seafood industry, particularly one of our larger dealer processors. Mr. Jenkins is here in the audience today. I'd like to recognize him.

Currently the way our ordinance reads, our regulation reads, it allows for just offshore aquaculture. The proposal today would amend those rules to include onshore facilities.

In essence, what Mr. Jenkins would like to do or make available to the seafood industry is the ability to produce small spat for his lease on shore. He would do that primarily in the Pass Christian harbor area.

So that would require us to modify our current rules and regulations to incorporate that.

And in order to do that, we would have to modify some very specific sections in Part 13, and that would include these changes to Chapter 4 and to Chapter 7. They're essentially the same changes. We would insert the language, other than approved onshore molluscan shellfish facilities.

And the reason we would do that, that would allow for the production of spat on shore.

The other significant change, and unfortunately I'm going to have to read this into the public record, would be the addition of Section 103 in addition. It ends at 102, so we'd have to add in Section 103 to require onshore aquaculture.

And this would be establishing the specific regulations for that activity.

Proposed would be onshore culture of molluscan shellfish including any aquaculture operation of molluscan shellfish on the mainland and all offshore or barrier islands that involve either the production or grow out of spat of seed stock and not intended for direct consumption.

All onshore molluscan shellfish aquaculture facilities are required to certify that all stock cultured and originating from sources outside of the State of Mississippi are free of any diseases or parasites harmful to marine organisms. Such certification shall be submitted to the MDOR prior to the operation of the aquaculture facility.

Prior to the release into the waters of the State of Mississippi, any discharge from an onshore molluscan shellfish aquaculture facility is required to be treated to eliminate any parasites or diseases harmful to marine organisms. Documentation of this process shall be submitted to the MDOR.

Prior to the release into the waters of the State of Mississippi, any effluent from an onshore molluscan shellfish aquaculture facility is required to be treated to reduce to pre-approved levels of all chemicals, drugs, or any other substances which may be present in the effluent.

Documentation of this process shall be submitted to the MDOR.

Only the aquaculture species native to the State of Mississippi, including polyploid native species, shall be permitted.

In addition to the aforementioned requirements for molluscan shellfish culture, an applicant shall also abide by all relevant Commission of Marine Resources regulations governing shellfish.

So that's the essence of what we would be asking for today is to insert this language to allow for onshore aquaculture.

I do want to take a minute to explain this. Our attorneys have explained this at previous presentations, and our staff has also mentioned this additional process that has to be abided by when filing a notice of intent implementing the Administrative Procedures Act.

If this law became effective July 1 of this year, it includes some very specific things that are required prior to filing of a notice of intent. Essentially it establishes a small business regulatory review committee that provides that this committee review any rule that is established by a state agency. The review committee is assigned to the Mississippi Development Authority. And the committee consists of 12 members, four appointed by the governor, four members appointed by the lieutenant governor, and four members are appointed by the speaker of the House.

Now, I'll read to you one of the key provisions of this new state law. Prior to submitting proposed permit rules or adoption, amendment, revision or revocation pursuant to the Mississippi Administrative Procedures Law, which is what we're engaged in this morning, the agency shall comply with Section 25-43-1.102, Subsection D, in order to determine...
whether the proposed rules affect small businesses by preparing an economic impact statement that includes — and then it goes on to list all the requirements.

So I just wanted to make the marine commission aware this morning we're going through this process now since July 1 that we will be asking for a notice of intent, to go out for a notice of intent, but prior to us being able to file that with the Secretary of State, we'll have to get an economic impact statement.

So at this time, I'd need a motion from the commission to proceed.

MR. COLLOTT: Joe, let me ask you a question.

Why would you make them go to the expense of treating the discharge water when the oysters would come off of Pass Christian reef, and the water would probably be circulating on that area down there and in fact discharged back?

MR. JEWELL: That's correct. My understanding of the operation — there's no business plan been filed for development at this point — but my understanding from speaking with the processor is that that's exactly what would happen.

And the rules, the language is that way because right now we allow for that.

But we can't anticipate someone else coming forward that may want to establish an aquaculture facility that would use some other chemical or some other process. So when we wrote the language, we wanted to incorporate all types of possibilities in the future so we wouldn't have to modify the language again.

MR. COLLOTT: Mr. Chairman, I'd like to make a motion that we approve this language.

MR. TAYLOR: We have a motion on the floor to send it out for notice of intent pending the economic impact analysis. Do I have a second?

MR. BOSARGE: I'll second it.

MR. TAYLOR: All those in favor. Passes unanimously. Thank you, Joe.

MR. JEWELL: Thank you, commissioners.

MR. DIAL: Next up for marine fisheries is going to be Matt Hill, and he's going to give you a presentation on a means test for recreational speckled trout fishing. And this is an action item.

4. Means Test

MR. HILL: Good morning. Good morning, Sandy.

I'm here this morning to do a presentation on our spotted seatrout commercial fishing means test options. Basically there's five options, and I'm just going to have to read them all to you.

Option one which we discussed at the last meeting is individuals harvesting spotted seatrout for sale must possess a spotted seatrout endorsement, and we just put the monetary value of $10 for this endorsement, in addition to a current applicable harvester's license. To qualify for this endorsement, an application must be completed and the fisher must present proof that $5,000 of seafood product was sold in any 12 consecutive months of the previous 36 months. Proof will be copies of sales records and a copy of the applicable harvester's license for the appropriate time period. This endorsement will be valid for a three year period at which time the fisher must submit proof that they are eligible for a new spotted seatrout endorsement.

The second option today would be individuals harvesting spotted seatrout for sale must possess a spotted seatrout endorsement, $10 again, in addition to a current applicable harvester's license. To qualify for this endorsement, an application must be completed and the fisher must present proof that 10 percent of their net income came from commercial fishing activities within one of the previous three tax years. Proof would be a form provided by the DMR completed by a licensed tax preparer possessing a PTIN or preparer tax identification number. Must be notarized and submitted to the department. This endorsement will be valid for a three year period at which time a new form must be submitted for a new spotted seatrout endorsement.

Option three basically combines these two. It gives you the option. Individuals harvesting spotted seatrout must possess a spotted seatrout endorsement, $10, in addition to a current applicable harvester's license. To qualify for this endorsement, an application must be completed. The fisher must present proof that $5,000 of seafood product was sold in any 12 consecutive months of the previous 36 months. Proof would be copies of sales records and a copy of the applicable harvester's license for the appropriate time period or the fisher must present proof that 10 percent of their net income came from commercial fishing activities within one of the three previous tax years. Proof would be form provided by the DMR completed by a licensed tax preparer, notarized, and submitted to the department. This endorsement will be valid for three year period at which time a new form must be submitted for a new spotted seatrout endorsement.

And option four, basically it takes the 36 month time limit off and allows them to go back further than 36 months. It's still a combined. Individuals harvesting spotted seatrout for sale must possess a spotted seatrout endorsement, $10, in addition to a current applicable harvester's license. To qualify for this endorsement, an application must be completed. The fisher must present proof that $5,000 of seafood product was sold in any 12 consecutive months. Proof would be copies of sales records and a copy of the applicable harvester's license for the appropriate time period or the fisher must present proof that 10 percent of their net income.
Mr. Bosarge: That's right. You know, in my opinion, this is a commercial license for a commercial fishery.

And I don't see where you could have a lack in the amount of fish being produced. They are going to be produced over a longer period of time because there would be commercial fishermen catching them which would allow them to earn more income off of that, being that I think the recreational catch is 1.2 million, the commercial quota we raised to 50,000.

Mr. Taylor: Commissioner Bosarge, my concerns would be eliminated if we had an appeals process, if we added something to where a person entering the fishery that did not commercial fish before could appeal and maybe explain why, use the same appeal process that we use for the licenses now.

Mr. Bosarge: I don't have a problem with that.

Mr. Taylor: Okay.

Mr. Gollott: I'll second the motion.

Mr. Taylor: We have a motion on the floor. The motion --

Mr. Gollott: I'll second the motion if we can insert that language.

Mr. Hill: For an appeals process?

Mr. Taylor: Yes. Just use the same appeals process we use for the licensing now, if you don't have a license, you know, I guess for the oysters is when we had a problem.

Mr. Hill: Before we go any further, I did want to put -- I had this last time -- here are going to be some of the problems. They are going to exist. There's nothing we can -- we have not figured out how to handle some of these yet.

The first being is if we do an endorsement, they will not be able to get their endorsement -- they will not be able to get their license in the same day. They're going to have to submit their documentation. It will have to be reviewed by one person or two, however many we assign to it, and a decision will have to be made.

Another question that we will have to answer is will fresh product permit holders be allowed to submit their own receipts. These are people that sell to the public. They make out their own receipts. Apparently under Florida law, these receipts are only valid if you sell to a seafood dealer. Does everyone on the boat have to have the endorsement of spotted seatrout or possess while they're commercially -- if one person is commercial fishing for spotted seatrout, does everybody on the boat have to have a license?

And we also feel that there are some other unintended consequences that obviously we probably have not thought of.

Mr. Taylor: Under the fresh product permit holders, don't they now have to submit a trip ticket or something now?
MR. BOGARGE: Yes, sir.

MR. HILL: They do have to submit a trip ticket. But trip ticket is in its first year of -- it's going to take a little while.

MR. GOLLOTT: But isn't that going to open this thing up to somebody falsifying?

MR. HILL: This particular -- this allows them to potentially turn in falsified receipts until the trip ticket program becomes something that we can rely on.

MR. BOGARGE: And you did put a -- there is a three years, after three years you have to come back and basically --

MR. HILL: It's a three year endorsement. So the first problem is not that big of a -- it's a small problem. But once they get it, it is good for three years, so it's not like they have to come back every year.

MR. GOLLOTT: I don't see number one being a problem since the season is going to open on such a date, and the fishermen that want to do this can -- you know, they got months to do it. So I don't see number one being a problem.

MR. TAYLOR: Number two, I don't think I like that. I think they need to sell to a dealer so we can get the proper information at least the first year.

Everyone on the boat should have to have an endorsement if they're out there fishing commercially.

MR. HILL: But before we can take this cut for notice of intent, the language is going to have to be correct because it will have to go through an economic impact statement as Joe said earlier.

MR. TAYLOR: It's going to have to anyway;

Mr. HILL: That is correct. This is not something that will be enacted for the 2013 season. We're looking at 2014.

MR. TAYLOR: Under number two again, you know, I said receipts. Tax return pretty much shows on your tax return where your money is coming from, you know, the tax return. If they're not going to do that, then, you know, I mean, that just -- you know.

MR. DIAZ: I just wanted to make a quick comment if I could. I think I heard y'all say that you would like us to build in an appeals process that was real similar to the oyster process. We might have to do something that would be specific for this. What we're doing for oysters I'm not sure would work, just thinking about it real quick.

For oysters right now, you have to have had a license in the previous year to be considered for an appeal and landings in the previous year that that fishery was open.

And then after that, if they meet those two criteria and they got a hardship reason, we send those on to

Dr. Walker to consider whether the hardship reason is valid or not.

So we may have to do something different for an appeals process here because it's different -- dealing with different set of circumstances.

MR. TAYLOR: I agree.

MR. HILL: Okay. So we have a motion on the floor to -- for option number four with appeals process stuck in there or put in, excuse me -- I'm acting like Buck. Do I have a second on the motion?

MR. GOLLOTT: Yes, I'll second it.

MR. HILL: Also, before you vote, we were asked to consider if you are going to pass one of these four options to maybe consider putting a sunset clause in there, reading something like section shall cease to be in effect after April 30 with a certain year on there unless further commission action is taken to extend the requirement. April 30 is the end of our commission license year.

MR. BOGARGE: Explain it further.

MR. TAYLOR: He just wants a sunset --

MR. GOLLOTT: What's your reason for that?

MR. HILL: So it's not something that would go on and on and on. If there's a problem, then we can -- it would end at a certain date unless the commission -- we can make it 2015, and then you would have to say, well, we want to keep doing this, and you could take that provision out of there.

MR. CHESSUT: It would also do away with the necessity of doing another economic impact statement if we decide to change it back in the future.

MR. HILL: That is correct.

MR. BOGARGE: I don't see a problem with that.

MR. TAYLOR: I don't, either. I don't think '15 would be enough, especially since you're going to --

MR. HILL: I just threw a number out.

MR. GOLLOTT: What do you think? Five years maybe? The license are due in three years. Why not do it in three years?

MR. TAYLOR: Sunset clause in three years.

Modify the motion.

MR. BOGARGE: Can they do it for six years where it would be two sets of three?

MR. HILL: We can do it for six years from date of implementation.

MR. TAYLOR: Do you have a problem with that?

MR. GOLLOTT: No.

MR. TAYLOR: Okay. We have a motion, a second. The motion is option four with an appeals process inserted and also a sunset clause six years from date of implementation. Is that pretty much what --
MR. GOLLOTT: Now, what are you going to do about those four items? How are we going to handle that?

MR. HILL: I was hoping you'd tell me.

MR. GOLLOTT: Put that back up again, please.

MS. CHESNUT: Just to clarify, the motion is on the floor. This is so that the staff could move forward preparing the notice of intent. They will come back next month with the notice of intent prepared based on the motion you make today so that the final wording can be, you know, decided on at that time.

MR. GOLLOTT: I don't think number one is a problem.

MR. HILL: Okay.

MR. TAYLOR: Two, could we just say use the tax receipts -- or not tax receipts, but their tax return? Because if they file a tax return, it's going to show fishing income on there.

MR. GOLLOTT: Well, I'm talking about number one now. Do we have a problem with number one? You know, they just need to get their license ahead of time, and they don't need to expect this to be done in one day.

MR. HILL: I think in the future number two will take care of itself once the trip ticket program, we get a little better handle on that. But just in the near future, that's not something that we can rely on to verify.

MR. BOGARGE: By the time we actually get this implemented, the trip ticket system should be in place long enough to take care of that.

MR. TAYLOR: So that's not an issue.

Number three.

MR. GOLLOTT: I think everybody should have to have an endorsement if they're fishing commercially.

MR. TAYLOR: I agree.

MR. HILL: We talked to marine patrol about that, and they would like to see that.

MR. TAYLOR: I agree, too.

And four, you know, there's going to be problems with anything you implement, just have to revisit it, you know, like we have in the past.

So we have a motion for option number four with an appeals process and sunset of six years from implementation, everybody on the boat must have a spotted seatrout endorsement, and I think that's pretty much the motion. And I'm going to ask for another second because the motion has changed.

MR. DRUMMOND: Can I make a comment first, Mr. Chairman?

MR. TAYLOR: Yes.

MR. DRUMMOND: Since there are a number of changes in this item on the agenda, I think we should let the staff insert those changes in there and make a vote on it next time if that's all right.

MR. HILL: Isn't that what we're doing, Sandy?

We'll bring it with the changes, we'll bring it up for notice of intent, then it will have to be voted on at the next meeting.

MR. DRUMMOND: Okay.

MR. GOLLOTT: You need a vote this time just to proceed?

MR. HILL: Yes.

MR. GOLLOTT: Okay.

MR. TAYLOR: We have a motion on the floor. Do I have a second?

MR. GOLLOTT: Second it, Mr. Chairman.

MR. TAYLOR: Okay. All those in favor. Passes unanimously.

Thank you, Matt. Great job.

Next up, and Dale, it's back on the agenda, the oyster update.

MR. DIES: Yes, sir. Scott is sick today.

Bradley Randall is going to fill in for Scott. And this is an action item now. It was changed.

5. Oyster Season Update

MR. RANDALL: I think I need the commissioner's glasses. There we go.

Good morning, commissioners, Ms. Chesnut, Mr. Walker. My name is Bradley Randall, and I'm filling in for Scott Gordon giving you the 2012-2013 limited oyster season update.

This is a graph of our historic landings throughout the -- since 1990. As you can see, the 2004-2005 was our peak season, almost 500,000 sacks. And then Katrina hit, and we were down. You can see our media right here after Katrina. Started to build back up to over 350,000 sacks back in 2009, and then this is reflecting of the Bonnet Carre Spillway where we had to close the oysters. And then 2012 our limited season so far.

We opened up our oyster season on November 5 on a Monday. So far we had a total of 12 days of harvesting.

You can see the breakdown of the total number of trips during these 12 days. This is the number of boats out of Pass Christian harbor, this is the Mississippi dredging, nonresident dredging, Mississippi tigers and nonresident tigers.

And these are the Bayou Cadet trips so far, 348 for Mississippi, and 64 nonresidents, with a total of 1,257 trips in the past 12 days.

This is a breakdown of number of sacks harvested through license type. And our grand total so far for 12 days is 20,980. And that works out to be about 1,748 sacks per day.

I think this kind of reflects -- we've had some
bad weather days, so a lot of the tongers haven't been able to
go out, and that's why we're seeing some of the low numbers
right here. Obviously none of the tongers could go out of
Bayou Cadet.

Any questions about the oyster harvesting so
far?

We'd like to let you know that we are -- we have
staff out every day interviewing fishermen, making
observations, and doing samples on the reefs to determine the
quality of the reef and how much resource is on the reefs. And
so far it's been holding out pretty decent. The fishermen are
taking measures, but they'll stop for a little bit, then
they'll move on to another one that's a little more productive,
a little easier.

Yesterday, Dale went out with some staff, and
some of the guys were mostly on the Pass Marianne reef, a
little bit south of Square Handkerchief and Henderson Point
areas.

These are total number of license sales as of
November 19, 2012.

These are the numbers right here. These
negative numbers reflect if we had a quota set like right here,
we have 94, and a guy's boat either broke down or he couldn't
use it, he was allowed to surrender his license and then
repurchase another license for another boat. That was allowed.

Dale explained before what the criteria was to meet in order to
have a license.

And with that, do you have any questions?

MR. GOLLOTT: I have some. The reason I moved
this to an action item, your graph up there shows we had 28
nonresident license left. And I had some fishmen from
Mississippi complaining that we had run out of Mississippi
licenses, holding 30 licenses, 28 licenses, for out of state
people.

I think this has been an unintentional
consequence. We should never turn our own people away and not
sell them a license and hold licenses for out of state people.
That's just not right.

What I'd like to do is make a motion that we
take the cap off of the licenses and give the authority to Dr.
Walker if he sees us -- you know, if we get in trouble, he can
intervene or the director can put a cap back on.

But I talked to counsel, and he said that would
probably be the best way is to, you know, break this up. Let's
don't hold so many license for our local people, and then out
of state people, that's just not right. We just need to sell
license.

And if the director wants to put a cap on it,
that's fine.

But I'd like to make a motion that we do that.

-- I'm going to try to back up a little bit. The way it worked
last year is I believe we opened up license sales for a month.
And during that month if they had a license in the previous
year could come in and buy a licenses.

At the end of that month, licenses was opened to
anybody who wanted to buy a license. So there's been a long
period of time in which anybody could buy a license. They were
not restricted, whether they had a license previously or not.

MR. TAYLOR: Well, I think my question is: Do you
think if we did that that we would be inviting nonresident
oyster tongers and dredgers that would come do it and then we
wouldn't have licenses for our resident people?

MR. GOLLOTT: Counsel has informed me that the
best way to do this is just take the cap off. The people in
Alabama is not coming over here because they have oysters in
Alabama this year. Louisiana is not going to come over here
because of the sack limit. So I don't think we'd --

MR. BOSARGE: I know in Louisiana, it is a
closed fishery. And I have a little bit of problem taking the
cap off. Would it not be okay if we went when the season opens
if there's any remaining licenses left for nonresidents we
could apply that to residents? And then it would basically do
what you're wanting to do. We'd still have the cap set but we
would be able to have more guys that have resident license use
that to buy one.
MR. GOLLOTT: You know, we could revisit this next season. And Dr. Walker has the authority to set the cap now, it's just that we've got this so many from Mississippi and so many --

MR. BOSARGE: It's a shame that we have licenses left over and our fishermen in the state --

MR. GOLLOTT: Are being turned down.

MR. BOSARGE: I agree.

MR. TAYLOR: Then we have a motion on the floor, if there are no further comments, Steve.

MR. BOSARGE: We can take the caps off. The issue I was talking about where we allowed the dredgers to buy tonging license or trade their license, that the tongers could trade for a dredge. So this maybe would fix that problem?

MR. DIAZ: I have had -- right now they currently can't do that. But I have had a few tongers that have asked if they could turn in their tonging license and trade for a dredging license. So that I would say about four people, Joe, has made that request?

MR. GOLLOTT: Would removing the cap fix that, Dale?

MR. DIAZ: It would. If you remove the cap, then anybody could buy any license any time.

MR. TAYLOR: Okay. So we have a motion.

MR. BOSARGE: Go.

MR. TAYLOR: Okay. Any other comments? We have a motion on the floor to remove the cap on the number of licenses. And do I have a second?

MR. BOSARGE: Can we get some comment? Dale, what are your thoughts or Bradley with doing this? I don't want to be too hasty here.

MR. DIAZ: I want to be careful what I say here. I think basically what we did in the past has worked. There are some nonresident licenses that are available. But one of the things our residents are saying is they would like to eliminate some of the nonresidents that come over here.

And being the fact that we did not sell all of our nonresident license out, I mean, that kind of points to a little bit of the fact that it did something I think y'all were trying to accomplish whenever we first implemented it.

As far as whether you take the cap off or not for this point in the season, I mean, I think it's only going to affect a few people. The season is winding down, and I don't think we're going to have a big slug of boats come in here if you take the cap off. But I don't know if it has any implications on what you do next year. I mean, that's another decision.

We generally come to y'all in February and start talking to you about license caps. Last year we came to you in February, but we really didn't settle it until April.

MR. BOSARGE: I mean, the question is: If we remove the caps now and just open the fishery up, I'm like you, I don't see a problem this year. I see if the reef rebuilds and there's a great abundance of oysters, then next year all of a sudden we've got -- we've covered up, more fishermen than we need. That's what my concern is.

But I think you're saying that we could modify it again before the season is opened?

MR. DIAZ: It's my intention unless somebody changes my mind for us to bring back to y'all in February a motion for y'all to consider whether to cap licenses for oysters next year. That's my intention.

MR. BOSARGE: Commissioner Gollott, is that kind of what you see? In other words, are you thinking of taking the cap off just so some of these fishermen can fish the rest of the season and not worry about next year? Or are you thinking also next season coming up?

MR. GOLLOTT: You know, we always set it in the beginning of the season, so it will be set next year at the beginning of the season. I'm just looking at finishing this season up and letting our people who want to make a living doing it.

And it's winding down, like Dale says. But still it's not right for us to turn our own people down and not sell them a license when there's license available.

MR. BOSARGE: Do you want to modify your motion just a little bit to where we take the cap off for now but then we revisit this again next season?

MR. DIAZ: Bradley did make a comment from this previous slide. I don't know if you noticed, but we've been getting about 90, 100 boats a day working, and you can see the total number of license that we have is substantially more than that. So only a smaller percentage of license holders actually are participating.

MR. BOSARGE: And I'm sure there are license requirements, I'm sure there are a bunch of them that are buying their license so they'll be sure that they get one for the coming year.

MR. DIAZ: Yes.

MR. TAYLOR: Okay. We have a motion on the floor to modify the cap. And do I have a second?

MR. DURMOND: Second.

MR. TAYLOR: All those in favor. All those opposed? Motion passes.

MR. RANGWALL: I have one more item.

Area VI in Jackson County was not able to open up due to water quality issues. We've been working with the FWC taking samples. So we will not be able to open that up.

That's Bell Fontaine beach, Passacagoula River.

And right now in Area VIII, which is East...
Jackson County in the NERR, and Area VI, we’re doing a
bacterial source tracking to find out where the fecal coliform
is coming from.

So we’re in the process of evaluating that right
now.

MR. HOSORGE: And when do you expect to get
those results?

MR. RANDALL: Dale says about two weeks.

MR. GOLLOP: Is there any chance we can get
that on the Area VI, also?

MR. DIAZ: Both areas have been tested.

MR. RANDALL: Thank you.

MR. DIAZ: That concludes marine fisheries, Mr.
Chairman. Thank you.

MR. TAYLOR: Thank y’all very much.

Next up is coastal ecology, Jan Boyd.

H. Coastal Ecology

MR. BOYD: Good morning, Mr. Chairman,
commissioners, Dr. Walker, Ms. Chestnut.

Coastal has two action items for your
consideration this morning, and Jennifer Wittmann will be our
first presenter.

3. Bureau of Wetlands Permitting

a. Kenneth Lee

MS. WITTANN: Good morning. My name is

Jennifer Wittmann. I’ll be presenting the first item on the
agenda today. It’s a permit request by Kenneth Lee located on
St. Martin Bayou at 15409 Sequoia Avenue in Biloxi — in
D’Iberville, and that is in Jackson County.

The project location is indicated by the yellow
star in reference to I-10 and 110, and then again the yellow
star showing the project location on the zoomed-in view.

The applicant is requesting authorization to
construct a multifamily pier and to dredge.

They are requesting 412 square feet of access
pier, 1970.5 feet of piers and boathouse, 1,684.1 cubic yards
of dredging, and 70 linear feet of bulkhead.

The areas in red show the areas that are
proposed for dredging. The small hatched areas are areas of
SW that were found during our SW survey. None of the
dredging will take place within ten feet of the submerged
aquatic vegetation as required.

In this picture, the red shows an area of access
pier that will be built. Again, the access pier has been
constructed in a way to avoid all of this submerged aquatic
vegetation and marsh area. And this is the existing bulkhead
that will be replaced.

This is the second area of construction. The
red line here shows an access pier that will go over emergent
vegetation and come out over the waterway. This will be a
boathouse and piers in the area. But again, all being
constructed in a way to avoid the submerged aquatic vegetation.

The project does not serve a higher public
purpose.

It is allowable within the general use district.

Similar projects have been approved by the
commission, and no precedent setting effects are anticipated.

Two piers will cross on portions of vegetated
coastal wetlands. For single family residential projects, only
one access pier is typically allowed. However, up to two has
been allowed for multifamily piers and commercial projects such
as marinas.

This applicant has worked with DMR, as well as
other state and federal agencies, to ensure that all of their
impacts have been reduced to the maximum extent with the piers
and the dredging.

Best management practices will be utilized
during all phases of construction to minimize adverse impacts,
and the placement of structures and dredging have been adjusted
from the initial design again to minimize those impacts to
coastal wetlands.

No offsite alternatives have been considered.

This is a private residence, and the project serves to allow
the property owners and members of their family who have
residences located on the same water — excuse me — on the
same property access to the water.

Piers and boathouses and dredging do require
waterfront location.

The proposed structures are consistent with
structures that are typically allowed in residential areas, and
there should be no adverse impacts to the natural scenic
qualities.

Notification of the project appeared in the Sun
Herald as required. No public comments were received.

DEQ is currently reviewing the project.

Archives & History has requested a cultural resources survey.

Department of Wildlife, Fisheries & Parks is currently
reviewing the project. And the Secretary of State’s Office
requested that the bulkhead be constructed no further seaward
than the current mean high tide line.

Based on departmental review and evaluation, it
has been determined that the project is consistent with the
Mississippi Coastal Program and has minimized impacts.

Therefore, we recommend issuance of the permit contingent on
clearance from the Mississippi Department of Archives & History
and the Mississippi Department of Environmental Quality.

MR. TAYLOR: Any questions? Do I have a motion?

MR. GOLLOP: Mr. Chairman, I make a motion that
we approve this application.

MR. TAYLOR: Do I have a second?
MR. BOGARGE: I second.

MR. TAYLOR: All those in favor. Motion carries unanimously. Thank you.

MS. WITTMANN: Thank you.

b. Chevron Pipe Line Company

MR. DAVIS: Good morning. My name is James Davis. I'll be presenting the last item for coastal ecology.

We have a violation/after-the-fact waiver by Chevron Pipe Line Company. It's located on an unnamed canal adjacent to the Mississippi Sound on Highway 611 in Pascagoula. It's in the industrial development use district. And the agent is Project Consulting Services.

Here you can see the project location just south of the refinery in Pascagoula.

A zoomed-in location. This is an outfall drainage canal from Highway 611.

The applicant has installed 440 square feet of unauthorized articulated concrete mat in tidal and tidally influenced wetlands.

On April 2011, DMR issued a certificate of waiver for the installation of a pipeline by means of directional drilling. Temporary wetland fill was authorized for the activity with the condition all wetlands would have to be restored in accordance with DMR's marsh restoration guidelines once it was completed.

On September 2012, we received an after-the-fact application for the installation of concrete mat which was placed in order to control erosion in the area where the pipeline was joined together.

Project description. You can see this is that little canal that we were showing you earlier, and then our mat is right here. You'll see it in the picture coming up.

This is the complete worksite. In the background is the articulated mat.

This is the mat looking down the canal.

And then just an up-close view of the mat in place.

This project does serve a higher public purpose by allowing the refinery to prevent erosion around existing pipeline needed for refinery production.

The project is allowable within the industrial development use district.

Similar projects have been approved by DMR, and it is not expected to set a precedent.

Placement of the mat in any wetlands have already been affected. Initially there would have been temporary decrease in number of marine organisms; however, over time the number of organisms may increase due to attachment sites provided by the mat. And impacted areas must be restored to their pre-impact condition in accordance with the issued waiver.

The project should not have any adverse impacts other than the loss of benthic organisms.

The activity is low profile. It should not affect the natural supply of sediments, nutrients, temperature, salinity, water flow, or circulation.

All impacts have already taken place, so there should not be any more adverse impacts.

No offsite alternatives were considered as this is an area where existing pipelines are located.

The project requires waterfront location due to needing close proximity to the previously installed pipeline.

This project is located in an industrial area and should not affect natural scenic qualities.

National interest. Refinery is an integral contributor to energy needs of the Nation, and pipelines are a critical part of the refinery.

DEQ is currently reviewing the project.

Archives & History has no comment. Secretary of State has no objection. And Wildlife, Fisheries & Parks have no objection.

Upon departmental review, it's been determined the project is consistent with the Coastal Program. Staff recommends approval of the project and that a fine be issued in accordance with Mississippi Code 49-27-51. And the fine should be paid within 60 days of the commission's ruling.

The violation was discovered September 5, 2012.

Duration was 56 days. Maximum potential fine is five hundred fifty thousand. Minimum fine is one thousand. We do recommend a fine of one thousand. The project does meet guidelines. The applicant is aware of the permitting process. And they self-reported and have been very cooperative.

And the applicant and agent are here if you have any questions.

MR. TAYLOR: Do y'all have any questions or comments?

MR. DRUMMOND: I have a question for James. What is after-the-fact waiver? I don't know that I've heard that before.

MR. DAVIS: It's just another step in our permits. We have general permits that we issue. We have waivers, exclusions, and then permits.

This one, since it is minor in impact, it doesn't have to go through all the steps that a permit would require. But it is still after the fact, and it has to come before the commission.

MR. DRUMMOND: I make a motion.

MR. TAYLOR: That we accept the staff's recommendation?

MR. DRUMMOND: I make a motion but I'd like to change that motion somewhat. Since Chevron Refinery is a major
interest in Jackson County, it's contributed heavily to the cause over there, and I suggest we dismiss the fine, and I make a motion we approve the recommendation of the staff for this project.

MR. TAYLOR: We have a motion on the floor. Do we have a second?

MR. BOSARGE: I'm okay as long as it doesn't set a precedent.

MR. DAVIS: That would have to be directed towards Sandy.

MS. CHESNUT: As long as you stated the reasons in the record why you're waiving the fine in this case, it shouldn't set a precedent.

MR. TAYLOR: Okay.

MR. BOSARGE: I'll second the motion.

MR. TAYLOR: We have a motion to accept staff's recommendation but because of the Chevron's jobs, I guess, and what they do for the community, we waive the fine. I have a motion and a second. All those in favor. Recess unanimous.

Thank you.

Thank you, James.

MR. DAVIS: I believe this concludes coastal ecology's portion of the meeting.

MR. TAYLOR: Okay. Tidelands office, Joe.

Financial report.

J. Administrative Services

MR. DOSTER: We all need glasses this morning, I believe. Sorry about that.

MR. TAYLOR: See, I started something.

MR. DOSTER: Okay. The financial report. Our total budget for Fiscal Year 2013 -- excuse me. My name is Tom Doster. I'm filling in for Kara Vesa this morning.

The budget for Fiscal Year 2013 is $6,152,176. The budget remaining for Fiscal Year 2013 is $3,489,995. And the tidelands funds of $10,170,743 are all obligated.

Are there any questions?

MR. TAYLOR: Thank you. Any other business to come before the commission? Shelby.

MR. DRUMOND: I make a motion we adjourn.

MR. TAYLOR: Do I have a second?

MR. COLLOTT: You've got a second.

MR. TAYLOR: All those in favor. Thank you.

(Meeting adjourned 10:20 a.m.)